

BUSINESS REPORT

**MONTANA SENATE
61st LEGISLATURE - REGULAR SESSION**

SENATE JUDICIARY COMMITTEE

Date: Friday, January 23, 2009
Place: Capitol

Time: 8:00 am
Room: 303

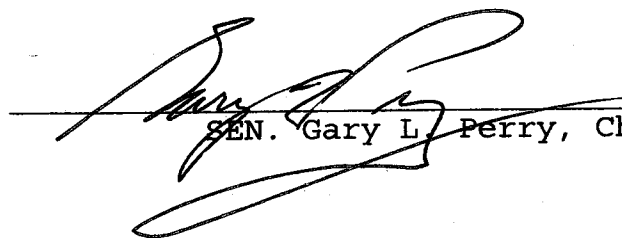
BILLS and RESOLUTIONS HEARD:

SB 221

EXECUTIVE ACTION TAKEN:

SB 121-Do Pass As Amended, SB 158-Do Pass As Amended, SB 191-Do Pass As Amended,
SB 209-Do Pass As Amended SB 205-Tabled

COMMENTS:


SEN. Gary L. Perry, Chairman

MONTANA STATE SENATE
Roll Call
JUDICIARY COMMITTEE

DATE: 1/23/09

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
SENATOR GARY PERRY, CHAIRMAN	7	
SENATOR JIM SHOCKLEY, VICE CHAIRMAN	7	
SENATOR AUBYN CURTISS	7	
SENATOR JOHN ESP	7	
SENATOR GREG HINKLE	7	
SENATOR LARRY JENT	7	
SENATOR CAROL JUNEAU	7	
SENATOR CLIFF LARSEN	7	
SENATOR JESSE LASLOVICH	7	
SENATOR DANIEL MCGEE	7	
SENATOR LYNDIA MOSS	7	
SENATOR TERRY MURPHY	7	



SENATE STANDING COMMITTEE REPORT

January 23, 2009

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Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 121** (first reading copy -- white) do pass as amended.

Signed: _____

Gary L. Perry
Senator Gary L. Perry, Chair

And, that such amendments read:

1. Page 2, line 1.

Following: "to"

Strike: "any"

Insert: "the"

Following: "in the"

Strike: "state"

Insert: "county in which the respondent resides"

- END -

Committee Vote:

Yes 12, No 0

Fiscal Note Required ____

SB0121001SC.sdr



SENATE STANDING COMMITTEE REPORT

January 23, 2009

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Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 158** (first reading copy -- white) do pass as amended.

Signed:


Senator Gary L. Perry, Chair

And, that such amendments read:

1. Title, line 6 through line 8.

Following: "DISTRICTS" on line 6

Strike: remainder of line 6 through "JUDGES" on line 8

Insert: "TO BE ELECTED"

2. Title, line 9.

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

3. Page 1, line 22.

Strike: "Provisional appointment -- election."

Insert: "Election of judges."

4. Page 1, line 22 through line 26.

Following: "election." on line 22

Strike: remainder of line 22 through "(2)" on line 26

5. Page 1, line 26.

Following: "for the"

Insert: "1st,"

Following: "8th,"

Insert: "11th,"

6. Page 1, line 28.

Following: line 27

Insert: "NEW SECTION. Section 3. Contingent voidness. If

Committee Vote:

Yes 9, No 3

Fiscal Note Required ☐

SB0158001SC.sdr

House Bill No. 2 is passed and approved and if it does not provide funding for personal services and operating expenses to support the additional judges provided for in [this act], then [this act] is void."

Renumber: subsequent section

7. Page 1, line 29.

Strike: "on passage and approval"

Insert: "January 1, 2010"

- END -



SENATE STANDING COMMITTEE REPORT

January 23, 2009

Page 1 of 3

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 191** (first reading copy -- white) **do pass as amended.**

Signed: _____

Senator Gary L. Perry, Chair

And, that such amendments read:

1. Title, line 7.

Following: "NEEDS;"

Insert: "AMENDING SECTIONS 61-8-460, 61-8-725, AND 61-13-104, MCA;"

2. Page 3, line 6.

Following: line 5

Insert: "Section 3. Section 61-8-460, MCA, is amended to read:

"61-8-460. Unlawful possession of open alcoholic beverage container in motor vehicle on highway. (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

(2) This section does not apply to an open alcoholic beverage container:

- (a) in a locked glove compartment or storage compartment;
- (b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;
- (c) behind the last upright seat of a motor vehicle that is not equipped with a trunk;
- (d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or
- (e) in the immediate possession of a passenger:
- (i) of a motor vehicle, including a bus, taxi, or

Committee Vote:

Yes 7, No 5

Fiscal Note Required ____

SB0191001SC.sdr

limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or

(ii) in the living quarters of a camper, travel trailer, or motor home.

(3) (a) A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100.

(b) A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, [section 1], 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of this section against the insured or increase premiums because of the violation. The surcharges provided for in 3-1-317, 3-1-318, [section 1], and 46-18-236 may not be imposed for a violation of this section."

Insert: "Section 4. Section 61-8-725, MCA, is amended to read:

"61-8-725. Penalty for violation of speed limits -- no record for certain violations. (1) A person violating the speed limit imposed pursuant to 61-8-303 shall be fined in accordance with the following schedule:

Amount of Fine MPH in Excess of Speed Limit

\$ 20 1 - 10 (daytime)

20 1 - 10 (nighttime)

40 11 - 20

70 21 - 30

100 31+

(2) A violation of a speed limit imposed pursuant to 61-8-303 is not a criminal offense within the meaning of 3-1-317, [section 1], 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and, except as provided in subsection (4), may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of a speed limit against the insured or increase premiums because of the violation if the speed limit is exceeded by no more than:

(a) 10 miles an hour during the daytime; or

(b) 5 miles an hour during the nighttime.

(3) The surcharge provided for in 3-1-317 or [section 1] may not be imposed for a violation of 61-8-303.

(4) The recordkeeping restrictions provided in subsection (2) with respect to a person's driving record do not apply to a speed limit violation or conviction that was committed by:

(a) a Montana resident in another state whose violation or conviction was reported to the department by a court or the licensing authority in the state in which the violation occurred; or

(b) a person who holds a commercial driver's license regardless of whether or not the violation occurred while the person was operating a commercial motor vehicle."

Insert: "Section 5. Section 61-13-104, MCA, is amended to read:

"61-13-104. Penalty -- no record permitted. (1) A driver

who violates 61-13-103 shall be fined \$20, but the violation is not a misdemeanor pursuant to [section 1], 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under 61-11-203(2)(m). Bond for this offense is \$20, and a jail sentence may not be imposed.

(2) A violation of 61-13-103 may not be recorded or charged against the driver's record of a person violating 61-13-103.

(3) An insurance company may not hold a violation of 61-13-103 against the insured or increase the insured's premiums due to a violation of 61-13-103.""

Renumber: subsequent sections

- END -

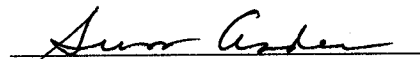
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TABLED BILL

The **SENATE JUDICIARY COMMITTEE** TABLED **SB 205**, by motion, on **Friday, January 23, 2009**.



(For the Committee)



(Secretary of the Senate)

12130 / 1/23
(Time) (Date)

January 23, 2009

Pamela E. Schindler, Secretary

Phone: 444-4891



SENATE STANDING COMMITTEE REPORT

January 23, 2009

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Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 209** (first reading copy -- white) do pass as amended.

Signed: _____

Senator Gary L. Perry, Chair

And, that such amendments read:

1. Page 4, line 30.

Strike: "15"

Insert: "10"

- END -

Committee Vote:

Yes 11, No 1

Fiscal Note Required ☐

SB0209001SC.sdr

MONTANA STATE SENATE
Roll Call Vote
JUDICIARY COMMITTEE

DATE 1/23 BILL NO SB 191 MOTION NO. 2
MOTION: _____

Perry Amend

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR DANIEL MCGEE	/		
SENATOR JESSE LASLOVICH	/		
SENATOR AUBYN CURTISS	/		
SENATOR LARRY JENT		/	
SENATOR TERRY MURPHY		/	
SENATOR LYNDA MOSS		/	
SENATOR JOHN ESP		/	
SENATOR CLIFF LARSEN		/	
SENATOR CAROL JUNEAU		/	
SENATOR GREG HINKLE		/	
SENATOR JIM SHOCKLEY, VICE CHAIR	/		
SENATOR GARY PERRY, CHAIRMAN	/		

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/ 7

MONTANA STATE SENATE
Roll Call Vote
JUDICIARY COMMITTEE

DATE 1/23/09 BILL NO SB191 MOTION NO. 3
MOTION: _____

D. Paul Clement

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR DANIEL MCGEE	/		
SENATOR JESSE LASLOVICH		/	
SENATOR AUBYN CURTISS		/	
SENATOR LARRY JENT	/		
SENATOR TERRY MURPHY	/		
SENATOR LYNDA MOSS	/		
SENATOR JOHN ESP		/	
SENATOR CLIFF LARSEN	/		
SENATOR CAROL JUNEAU	/		
SENATOR GREG HINKLE		/	
SENATOR JIM SHOCKLEY, VICE CHAIR		/	
SENATOR GARY PERRY, CHAIRMAN	/		

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MONTANA STATE SENATE
Visitors Register

Judiciary Committee

Date 1/23/09

Bill No. SB221 Sponsor(s) Sen. Tropila

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Name and Address	Representing	Support	Oppose	Inf.
LINDA METZGER	SELF	✓		
C.B. CORNELIUSON	CASCADE Co SD	✓		
David Castle	Sheriff Cascade Co.	✓		
Dave PAULI	ITSD	✓		
Ingrid Rosenqvist	Yellowstone city Atty Commissioner Kennedy	✓		
Joan Andersen	Fromberg	✓		
Joan Andersen	Fromberg	✓		
GINA Wiest	Heuser & Clark Lumber	✓		
Jane Heath	Mt. Horse Sanctuary	✓		
Kacie Raybould	Self	✓		
Lisa Thomas	Butte/self	✓		
MERLE RAPPEL	MT Co Atty Assoc	✓		
JOE TROPILA	SD 13	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.